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DRAFTING OF A DECLARATION ON THE RIGHT AND RESPONSIBILITY OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT UNIVERSALLY RECOGNIZED HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Report of the Working Group on its twelfth session

Chairman-Rapporteur: Mr. Jan Helgesen (Norway)

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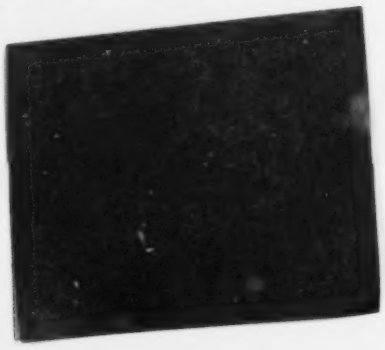

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Introduction

1. The Commission on Human Rights, by decision 1985/112 of 14 March 1985, established an open-ended working group to draft a declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms. This decision was approved by the Economic and Social Council in its decision 1985/152 of 30 May 1985. The Working Group held its first to eleventh sessions prior to the forty-second to fifty-second sessions, respectively, of the Commission on Human Rights, its reports to the Commission being contained in documents E/CN.4/1986/40, E/CN.4/1987/38, E/CN.4/1988/26, E/CN.4/1989/45, E/CN.4/1990/47, E/CN.4/1991/57, E/CN.4/1992/53 and Corr.1, E/CN.4/1993/64, E/CN.4/1994/81 and Corr.1, E/CN.4/1995/93 and E/CN.4/1996/97.

2. The Commission, in its resolution 1996/81 of 23 April 1996, decided to continue at its fifty-third session its work on the elaboration of the draft declaration. The Economic and Social Council, in its resolution 1996/25, authorized the open-ended working group to meet for a period of one week prior to the fifty-third session of the Commission on Human Rights in order to continue the work on the elaboration of the draft declaration.

I. ORGANIZATION OF THE SESSION

A. Opening and duration of the session

3. The twelfth session of the Working Group was opened by the chief ad interim of the Support Services Branch of the Centre for Human Rights, on behalf of the High Commissioner for Human Rights, who made a statement. During the session the Working Group held 10 meetings, from 24 to 28 February and on 21 March 1997.

B. Election of the Chairman-Rapporteur

4. At its 1st meeting, on 24 February 1997, the Working Group elected Mr. Jan Helgesen (Norway) Chairman-Rapporteur.

C. Participation

5. The representatives of the following States members of the Commission attended the meetings of the Working Group, which were open to all members of the Commission: Austria, Brazil, Canada, Chile, China, Colombia, Cuba, Czech Republic, Denmark, Egypt, El Salvador, Ethiopia, France, Germany, India, Italy, Japan, Madagascar, Malaysia, Mexico, Netherlands, Pakistan, Philippines, Russian Federation, South Africa, Sri Lanka, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

6. The following States non-members of the Commission were represented by observers: Australia, Belgium, Estonia, Finland, Iran (Islamic Republic of), Kenya, New Zealand, Nigeria, Norway, Peru, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden, Syrian Arab Republic, Tunisia, Turkey, Venezuela, Yemen.

7. The following non-member States of the United Nations were also represented by observers: Holy See, Switzerland.

8. The following United Nations body was represented by observers: Office of the United Nations High Commissioner for Refugees.

9. The following non-governmental organizations in consultative status with the Economic and Social Council were represented by observers at the meetings: Amnesty International, Association for the Prevention of Torture, Baha'i International Community, Center for Justice and International Law, International Commission of Jurists, International Federation of Human Rights Leagues, International Service for Human Rights, Lawyers Committee for Human Rights, North South XXI, Women's International League for Peace and Freedom, World Conference on Religion and Peace.

10. The Colombian Commission of Jurists and the Human Rights Commission of Kenya were also represented by an observer.

D. Documentation

11. The Working Group had before it the following documents:

E/CN.4/1997/WG.6/1	Provisional agenda
E/CN.4/1997/WG.6/CRP.1	Consolidated text of the draft declaration submitted by the Chairman-Rapporteur (see annex I)
E/CN.4/1997/WG.6/CRP.2-4 and 6-7	Proposals for amendments submitted by delegations
E/CN.4/1996/97	Report of the Working Group on its eleventh session

E. Organization of work

12. The Working Group adopted its agenda, as contained in document E/CN.4/1997/WG.6/1, at its 1st meeting, on 24 February 1997.

13. Upon the proposal by the Chairman-Rapporteur, the Working Group decided to continue the work on the draft declaration by considering first the four outstanding issues not included in the consolidated text submitted by the Chairman-Rapporteur which were: the right to attend and observe court proceedings; financing and domestic legislation; and duties and responsibilities.

14. The Working Group subsequently decided to convene an informal drafting group in order to speed up the drafting process. The informal drafting group, headed by the representative of India, met in the afternoon of 25, 26 and 28 February and in the morning of 26, 27 and 28 February; an informal meeting headed by the representative of Egypt was also held in the afternoon of 27 February 1997.

II. CONSIDERATION OF THE DRAFT DECLARATION

A. General debate

15. At the 1st meeting of the Working Group, on 24 February 1997, the Chairman-Rapporteur presented his condolences to the Chinese delegation for the death of the Chinese leader Deng Xiaoping. The Chairman-Rapporteur drew the attention of the delegates to the consolidated text of the draft declaration contained in document E/CN.4/1997/WG.6/CRP.1 which he had drafted after extensive consultations, both formal and informal, including those held in January/February 1997 in Geneva. He hoped that while the document was not perfect, it was a balanced text which could serve as a basis for consensus. The Chairman-Rapporteur pointed out that there were four remaining issues on which he was not in a position to propose a text due to the need for further consultations: the right to attend and observe court proceedings; the financing of those who are defending human rights and fundamental freedoms; the reference to domestic legislation; and the question of "duties towards society". He further pointed out that he was not in a position to suggest where the remaining articles - if accepted - should be placed; except for a possible text on the right to attend court proceedings, which was to be placed in article 7.3 (b). The Chairman-Rapporteur proposed that before discussing in detail the consolidated text*, the Working Group should concentrate on those four remaining unsettled issues. This procedural proposal was accepted by the Working Group.

16. In the general debate that followed, several participants made comments on the consolidated text submitted by the Chairman-Rapporteur and explained the position of their delegations on various issues relating to the draft declaration and the mandate of the Working Group.

17. Many speakers emphasized an urgent need to conclude the work on the draft declaration and pointed out that the Chairman's text was a good effort in this direction. The consolidated text was found by many delegations to be acceptable, subject to satisfactory solution of outstanding issues.

18. Particular views expressed by several delegations were as described in the following paragraphs.

19. The representative of India stated his delegation's belief that the activities of human rights defenders must be governed by law. He claimed that along with rights, human rights defenders also had responsibilities towards society. His delegation was willing to accept the consolidated text as a basis for further discussion, and particularly welcomed articles 3.1, 9, 13, 14, 15 and 16 of the text. Concerning the four remaining issues, non-governmental organizations should have the same rights as individuals with regard to access to court proceedings; financing of human rights defenders from abroad must be subject to domestic laws; there must be

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* At the end of the session, it appeared that, because of lack of time, it was not possible to have a detailed discussion of the respective provisions contained in CRP.1.

an overall reference in the draft declaration to domestic legislation; and article 5 of chapter V of the second reading text provided a good basis for discussion on the concept of duties which should be clearly enunciated in the draft declaration.

20. The representative of Denmark considered it essential that the Working Group should first of all take a stand on the four remaining issues before discussing any legal technicalities.

21. The representative of China stressed that cooperation and compromise were needed to complete the task assigned to the Working Group, and that the best declaration would be the one that was acceptable to all.

22. The representative of Germany recalled that the Universal Declaration of Human Rights had been drafted in only 18 months and expressed concern over the amount of time that this Working Group had spent on the deliberations of the draft declaration.

23. The representative of Canada and the observers for Norway and Sweden, while regretting that some important elements were missing in the consolidated text, agreed that it was a needed compromise and that it could be adopted ad referendum by the Working Group.

24. The observer for Sweden also expressed her delegation's preference for a shorter and more succinct title for the draft declaration.

25. The observer for Australia stated that the draft declaration should contain certain elements as a minimum and felt that the consolidated compromise text must therefore be strengthened in some areas.

26. The representative of Austria, while accepting the compromise text, indicated that her delegation would prefer stronger language in the draft declaration.

27. The representative of the Netherlands also expressed the view that the consolidated text was acceptable as a bare minimum, and that, after resolving the remaining issue, it should be adopted by the Working Group without substantial debate and changes.

28. The observer for Switzerland stated that the draft declaration should not weaken the existing international commitments in the area of human rights.

29. The observers for Poland and Sweden and the representative of the Czech Republic expressed their wish for the declaration to be adopted by the General Assembly before the fiftieth anniversary of the Universal Declaration of Human Rights in 1998.

30. The representative of Cuba stated that times had changed since the adoption of the Universal Declaration of Human Rights and thus there was no need for guilt over the delay in the drafting of the declaration. He also referred to a text published by a non-governmental organization in which his country was described as obstructing the progress of the Working Group and to

the fact that this type of comment was not conducive to compromise. The observer for Amnesty International stressed that non-governmental organizations had the right and the duty to make this type of comment. The representative of China stated that the so-called criticism from one particular NGO was neither well-founded nor responsible. His delegation was of the opinion that such criticism would only impede the progress of the Working Group.

31. The representative of South Africa recalled the positive role played by non-governmental organizations in his country under the apartheid regime and emphasized the importance of the financial contributions that those non-governmental organizations received from abroad. He also reminded delegations that they were drafting a declaratory document and therefore there should not be so much discussion on legal technicalities. This view was shared by the observer for the International Commission of Jurists.

32. The representative of Mexico stressed that the draft declaration should not limit the rights already established in international instruments. The consolidated text should be consistent with existing international norms on human rights. He expressed his delegation's preference for a clearer structure of the draft declaration with a balance between the rights and the duties of human rights defenders. His delegation would have preferred to have the duties listed in the operative part of the draft declaration, including the duty of persons or groups to respect local culture and customs. He stated that his delegation would have specific comments on the new articles 2, 4, 7, 10, 11 and 15.

33. The representative of Japan expressed his grave concern that the momentum towards concluding the draft declaration would fade if the Working Group should again fail to agree upon a text. He also stressed that calls for the financial and personnel resources to be shifted to other more urgent matters would certainly become stronger, in view of the fact that the draft declaration had been discussed for more than a decade without showing any tangible results.

34. The observer for the International Service for Human Rights stated that the consolidated text was disappointing because it limited the rights which existed in the previous text. However, his organization saw no alternative but to agree to this text as a bare minimum. The observer for the International Commission of Jurists also expressed his regret that not all important concerns of human rights defenders had been adequately taken into account in the consolidated text and that he would prefer more explicit language acknowledging the work of human rights defenders.

B. The issue of the right to attend and observe court proceedings

35. At the 2nd meeting, on 24 February 1997, the Working Group, at the proposal of the Chairman-Rapporteur, began consideration of the question of the right to attend and observe court proceedings.

36. The representative of Cuba referred to article 2 (d) of chapter IV as contained in annex I of document E/CN.4/1996/97 (see annex II) which read as follows:

> "Attend such relevant hearings or proceedings or, as the case may be, trials to assess their fairness and compliance with national and international standards;".

He suggested that this text should be kept with the following words added at the beginning: "With the exception of those cases for which national legislation provides otherwise, everyone has the right to ...".

37. The representative of Denmark referred to article 14 of the International Covenant on Civil and Political Rights and proposed making a reference to this article at the beginning of article 2 (d) of chapter IV by quoting the second sentence of article 14 and then the text of article 2 (d) of chapter IV with the addition of the following words at the end of that paragraph: "subject to the court deciding otherwise in the interest of justice". This proposal was supported by the representative of the United Kingdom who suggested that the words "in accordance with applicable international standards" could be added at the end of the text proposed by the delegation of Denmark.

38. The representative of the United Kingdom also proposed inserting into the consolidated text submitted by the Chairman-Rapporteur as article 7 paragraph 3 (b), the following text: "to attend, in person or through representation, relevant hearings or proceedings or, as the case may be, trials to assess their fairness and compliance with national and international standards. This paragraph shall not apply to attendance at hearings, proceedings or trials or parts thereof when, in accordance with the applicable international standards, the press and the public are excluded".

39. The observer for the International Federation of Human Rights Leagues proposed deleting, in article 2 (d) of chapter IV, the words "to assess their fairness and compliance with national and international standards".

40. Several delegations (Mexico, Romania, South Africa, India) favoured retaining the wording of article 2 (d) of chapter IV as contained in annex I to document E/CN.4/1996/97 (see annex II). The observer for the Lawyers Committee for Human Rights stated that a general clause such as article 15 of the consolidated text of the Chairman-Rapporteur was sufficient. Her position was shared by a number of delegations.

41. At the 9th meeting, on 28 February 1997, the Chairman-Rapporteur proposed, in CRP.6, the following text to be inserted in the consolidated text as new paragraph 3 (b) of article 7:

> "(b) to attend public hearings, proceedings and trials, to form an opinion on their compliance with national law and applicable international obligations and commitments."

42. Due to lack of time, no further discussion of this issue was held by the Working Group.

C. The issue of domestic legislation

43. At the 2nd and 3rd meetings, on 24 and 25 February 1997, at the proposal of the Chairman-Rapporteur, the Working Group discussed the following questions relating to the issue of domestic legislation: first, whether it was necessary to have one or several references to domestic legislation in the draft declaration; second, how to address the issue of the relationship between domestic law and applicable international commitments or standards; third, where to place the reference to domestic legislation: in the preamble, in the operative part or in the closing provisions.

44. The representatives of Cuba and China insisted on the need to include references to domestic legislation in the draft declaration and referred in this connection to article 2 of chapter V as contained in annex I of document E/CN.4/1996/97 (see annex II). The delegation of Mexico also referred to the concept of "limitations determined by law" in article 3 of the same chapter which should have a place in the draft declaration. The delegations recalled that those articles had already been adopted at the second reading in 1994. There was agreement among the participants that this text should be introduced in CRP.1.

45. The delegations of Germany, Norway, and of the International Federation of Human Rights Leagues and the International Service for Human Rights preferred not to have any reference in the draft declaration to domestic legislation.

46. The observer for the International Commission of Jurists proposed, in the event that a reference to domestic legislation would prove to be necessary in the draft declaration, modifying the wording of article 2 of chapter V by adding, at the beginning, the words "At the national level,"; deleting the word "all" and adding the following new wording at the end: "In the event that domestic and international norms differ, the norm providing the higher degree of protection for human rights and fundamental freedoms shall be applied".

47. The representative of India proposed that the text of article 2 of chapter V should become article 14 bis of the consolidated text submitted by the Chairman-Rapporteur.

48. The representative of France agreed to have only one reference in the draft declaration to domestic legislation.

49. The delegations of Brazil, Switzerland, Chile and Canada, and of the International Federation of Human Rights, though expressing their preference for not having any reference to domestic legislation in the draft declaration, stated that they could agree with the proposal presented by India, taking into consideration the modifications proposed by the observer for the International Commission of Jurists.

50. The representative of Denmark proposed an article which would have as its first paragraph the consolidated text of article 15 as presented by the Chairman-Rapporteur; as its second paragraph, the text of article 2 of chapter V with the addition of the words "At the national level" at the

beginning; and as its third paragraph a sentence stating that national law cannot be invoked as a justification for non-compliance with international treaty obligations.

51. At the 9th meeting, on 28 February 1997, the Chairman-Rapporteur proposed, in CRP.7, that the text identical to article 2 of chapter V as contained in annex I to E/CN.4/1996/97 (see para. 44 above and annex II) be included in the consolidated text as a new article "X".

52. Due to lack of time, no further discussion of this issue was held by the Working Group.

D. The issue of duties and responsibilities

53. At the 3rd and 4th meetings, on 25 February 1997, the Working Group, at the invitation of the Chairman-Rapporteur, took up consideration of the issue of duties and responsibilities.

54. The representative of Cuba reintroduced his delegation's proposal for paragraph 4 of article 5 of chapter V submitted at the tenth session of the Working Group, as CRP.12 reproduced in document E/CN.4/1995/93, annex II. Subsequently, the representative of Cuba submitted, in CRP.3, a revised version of this proposal reading as follows:

> "Everyone, individually and in association with others, has the [duty] [responsibility]
>
> inter alia:
>
> (a) To promote a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized;
>
> (b) To carry out their activities for the promotion, protection and realization of human rights and freedoms taking fully into account the principles of universality, objectivity, impartiality and non-selectivity and the need to avoid the introduction of political considerations in their activities."

55. The observer for Turkey proposed that article 5 of chapter V as contained in annex I to document E/CN.4/1996/97 (see annex II) be carried to the consolidated text and used as a basis for discussion. He also remarked that his Government could not give its consent to a text lacking a consolidated article enumerating the responsibilities of human rights defenders. The proposal to use the text of article 5 of chapter V as a basis for discussion was supported by the delegations of South Africa, Chile, India, Mexico, the Syrian Arab Republic, Egypt, China and Venezuela.

56. The observer for Romania favoured including only paragraph 3 of article 5 of chapter V in the consolidated text.

57. The observer for Sweden felt that there was no need to include another article on duties and responsibilities, as these issues were already adequately covered in articles 14 and 15 of the consolidated text. She further noted that paragraph 1 of article 5 of chapter V was a misquotation of paragraph 1 of article 29 of the Universal Declaration of Human Rights. Thus, if a reference on duties and responsibilities had to be included in the draft declaration, it should be an exact replica of this paragraph. These views were shared by the delegations of the Netherlands, the United States of America, Amnesty International, the International Federation of Human Rights and the International Commission of Jurists.

58. The representative of Cuba felt that paragraph 1 of article 29 of the Universal Declaration of Human Rights was too general because it lacked any enumeration of duties of individuals to society.

59. The representative of Denmark stated that only paragraph 1 of article 5 of chapter V as contained in annex I of last year's report of the Working Group was relevant since it contained the essence of the issue.

60. The representative of France stated that his delegation was not in favour of adding an article on the duties of human rights defenders. However, if such an article had to be included, and in the spirit of cooperation, his delegation would prefer a general clause such as paragraph 1 of article 5 of chapter V.

61. Referring to paragraph 3 of article 5 of chapter V, the observer for Kenya proposed moving the first sentence with some editing, to the preambular part of the draft declaration and to merge it with the last preambular paragraph.

62. The representative of Canada pointed out that in the title of the draft declaration, the concept of responsibility was linked only to the need to promote and protect human rights and fundamental freedoms. His delegation was also willing to consider the proposal of the observer for Kenya.

63. Following the consideration of this issue in the informal drafting group, the Working Group, at its 9th meeting, on 28 February 1997, had before it the text of new article "Y" reading as follows:

"Article Y

"1. Everyone has duties towards and within the community in which alone the free and full development of his personality is possible.

"2. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the advancement of democratic societies, institutions and processes.

"3. Likewise, they have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized."

64. The representative of India, acting as coordinator of the informal drafting group, made comments on article "Y" and article "W" (see para. 75) which are reproduced in paragraph 77 below.

E. The issue of financing

65. At the 5th and 6th meetings, on 26 February 1997, the Working Group, at the proposal of the Chairman-Rapporteur, began consideration of the issue of financing.

66. The representative of South Africa proposed the following text:

"Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the purpose of promoting and protecting, through peaceful means and subject to the provisions of article 'X',* human rights and fundamental freedoms."

This proposal was supported by the representatives of Mexico and Canada.

67. The representative of Cuba felt that the question of external financing was a crucial point and in this connection referred to article 4 of chapter III as contained in annex I to document E/CN.4/1996/97 (see annex II). He stated that the proposal of South Africa could be taken as a basis for future work but felt that, in order to defend the independence of NGOs and to prevent any interference in internal affairs, there should be a provision in the text stating that any direct or indirect funding from foreign Governments is not permitted.

68. The observer for the Human Rights Commission of Kenya preferred that an article on funding would contain a reference to international norms rather than to domestic legislation. This position was shared by the observer for the Colombian Commission of Jurists.

69. The observer for Kenya stated that all funding, domestic and foreign, to non-governmental organizations should be subject to domestic legislation in order to prevent the use of funds for illegal purposes.

70. The observer for Switzerland found some merit in the proposal of South Africa but felt that it could serve as a basis for discussion only when the text of a future article on domestic legislation had been agreed upon.

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* Future article on domestic legislation, based on chapter V, article 2.

71. The representative of Germany referred to the wording of paragraphs 8 and 36 of Economic and Social Council resolution 1296 (XLIV) of 23 May 1968 which could be used, if necessary, in dealing with the question of the use of financing for unlawful activities.

72. The observer for Nigeria suggested that there should be no reference to the issue of financing at all in the draft declaration. This view was shared by the representative of Pakistan and the observers for Sweden and the International Commission of Jurists.

73. The observer for the International Commission of Jurists stated that an additional reference to domestic legislation in the proposal of South Africa was unnecessary because the matter had already been adequately covered in articles 14 and 16. This view was shared by the representative of the Netherlands.

74. The representative of China, while also sharing the position of Nigeria, considered it crucial that financing must be subject to domestic legislation, and that the types and sources of financing should be clearly defined in any proposed language.

75. Following the consideration of this issue in the informal drafting group, the Working Group, at its 9th meeting, on 28 February 1997, had before it, in CRP.4, the text of new article "W" reading as follows:

"Article W

"Everyone has the right, individually and in association with others, lawfully and openly to solicit and receive resources from a legitimate source to be utilized for the sole purpose of promoting and protecting, through peaceful means, human rights and fundamental freedoms, in accordance with the provisions of article X and article 14 (CRP.1). Regulation of the solicitation, receipt and utilization of resources shall be on a non-discriminatory basis."

76. The representative of India, acting as coordinator of the informal drafting group, made comments on article "W" and on article "Y" (see para. 63 above) which are reproduced in paragraph 77 below.

III. OTHER ISSUES

A. Comments on articles "W" and "Y"

77. At the 9th meeting, on 28 February 1997, the following comments were made by the representative of India, acting as coordinator of the informal drafting group, on article "W" and article "Y" (see also paras. 63 and 75 above):

(a) The texts of articles "W" and "Y" had received the general acceptance of all delegations present through a process of informal consultations;

(b) Most delegations indicated that final approval for the text could be given only after they had seen it as part of a consolidated text in relation to CRP.1 introduced by the Chairman-Rapporteur;

(c) Some delegations had reservations on certain parts of the text and agreed to state them in the plenary session where their views would be placed on record;

(d) With regard to article "W" in particular, it was indicated by some delegations that further discussion was required only with regard to the words "lawfully", "openly" and "from a legitimate source".

78. At the invitation of the Chairman-Rapporteur, participants in the Working Group submitted their comments both on articles "W" and "Y" and on other matters, which are reproduced below.

79. The observer for Australia noted that there appeared to be general acceptance that a consensus could be reached on new article "W" if either "lawfully and openly" or "from a legitimate source" were deleted. In his delegation's view, neither of those phrases was necessary because of the reference to article "X". However, were one phrase to be considered necessary to the article, he believed that a consensus would most likely be formed around a text that did not include "from a legitimate source". He also believed that if a reference to duties was necessary, the only appropriate reference was paragraph 1 of new article "Y". However, in the interest of reaching consensus, his delegation could consider a text that included paragraphs 2 and 3 of new article "Y", provided that language based on subparagraph (b) of CRP.3 (see para. 54 above) was not included in the operative or preambular section of a consolidated text, as he found that subparagraph (b) would be inappropriate for inclusion in the declaration. Further, he considered that there was no general acceptance that the concepts included in the subparagraph should be included in the text of new article "Y" or anywhere else in the consolidated text.

80. The representative of Canada indicated that his delegation's understanding of the outcome of informal consultations on new article "W" was that there was general acceptance that a consensus text could be achieved by deleting either "lawfully and openly" or "from a legitimate source". Canada considered both of these phrases redundant in view of the reference to article "X" in article "W". Nonetheless, were the discussion to proceed on the basis of Canada's understanding of the outcome of the informal consultations, the Canadian delegation would prefer to delete the words "from a legitimate source". In addition, with regard to article "W", he noted that a discussion of financing had consumed much time and energy over the life of the Working Group, and that the current session had been no exception. Apparently, there remained a significant divergence of views about the right of human rights defenders to solicit, receive and utilize resources, and even about the outcome of the related informal discussions. Because a number of parts of article "W" remained unsettled, the delegation of Canada joined those delegations which had earlier expressed the view that silence on the issue of resources was the most promising approach. With regard to new article "Y", the delegation of Canada reserved its position on paragraph 3, pending completion of the consideration of all issues raised in the draft article, in

that only subparagraph (a) of CRP.3 had been considered in detail. Noting that subparagraph (b) of CRP.3 introduced issues which had not received general acceptance, the representative of Canada felt that it would be inappropriate to include such elements in new article "Y". To do so would provide a misleading reflection of the outcome of the informal consultations and would be inconsistent with the report of the coordinator of the informal drafting group.

81. With regard to new article "W", the representative of Germany stated that his delegation placed "mental brackets" on the adoption by consensus of new article "W". His delegation reserved its final position with the understanding that either "lawfully and openly" or "from a legitimate source" would be removed from the present wording. He considered that this decision should be taken in the light of agreement on the consolidated text of CRP.1 as a whole. He considered these phrases redundant for the reasons already expressed by the delegations of Australia and Canada. If one of these elements were to remain in the text, Germany would prefer the deletion of "from a legitimate source". With regard to article "Y", the representative of Germany noted that the informal drafting group had not completed consideration of subparagraph (b) of CRP.3. In the light of the informal discussion held on this issue, subparagraph (b) did not receive general acceptance. In the view of the delegation of Germany, it would be inappropriate to include the elements proposed. While Germany continued to oppose a reference to the principles contained therein in the context of the activities of individual human rights defenders, it could join a consensus on the inclusion of a reference to paragraph 32 of the Vienna Declaration and Programme of Action in the preamble of the draft declaration as proposed during the informal consultations.

82. The observer for the International Commission of Jurists stated that although the two phrases "lawfully and openly" and "from a legitimate source" were the principal focus of disagreement in discussions towards a text on financing, they were not the only issues causing difficulty. Lengthy efforts to attain a widely acceptable text on the right to obtain and use donated resources in human rights work did not succeed because of an abundance of proposals which repeated limitations already present in the draft declaration. He offered the following text for future consideration:

> "Everyone has the right to solicit, receive and utilize resources enabling activities to be carried out in accordance with this declaration."

Concerning CRP.3, he reflected that there had been no agreement on the appropriateness of, the need for or content of subparagraph (b) and that because no consensus had been developed or was developing, it should not be accorded the same status as new articles "W" and "Y".

83. The representative of the Netherlands felt that a provision for resource mobilization as proposed by the representative of South Africa should not include a reference to the single general domestic legislation clause, because it would be redundant and might set a bad precedent for the inclusion of similar restrictions in other provisions contained in the consolidated text. Further, his delegation held that a reference to article "X" (as well as

article 14 of CRP.1) related not only to the utilization of resources for the purpose of promoting and protecting human rights but extended to the process of soliciting and receiving such resources. Therefore, this reference was sufficient to ensure that soliciting and receiving funds would be in accordance with domestic legislation. He also expressed the view that the word "lawfully" was unnecessary. As for the proposal made by the representative of Cuba for a provision concerning the promotion of a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments could be fully realized, the representative of the Netherlands pointed out that it was the primary role of States to promote such an order. He recognized that individuals might have a role to play in contributing to the efforts of States in this matter and therefore suggested replacing the words "duty" or "responsibility" in the so-called "chapeau" with "have an important role to play" and replacing in subparagraph (a) the words "to promote" with "to contribute to promoting". Moreover, his delegation regarded the proposal of Cuba for a provision concerning the principles of universality, impartiality, objectivity and non-selectivity as unacceptable. It appeared to be extremely difficult to reach consensus on this proposal, and the representative associated himself with the proposal of Germany for the inclusion of a general reference in the preamble of the draft declaration to article 32 of the Vienna Declaration and Programme of Action.

84. The representative of the United Kingdom found the original proposal of the representative of South Africa for a new article "W" acceptable to his delegation, because it maintained the status quo (i.e. funding of human rights defenders being subject to national legislation consistent with applicable international law). He expressed strong reservations about the words "lawfully", "openly" and "from a legitimate source" that had been added in the informal consultations. There was a risk that these qualifying words would be used to impede the funding of human rights non-governmental organizations. He would prefer deleting the draft article "W" entirely rather than agreeing to a paragraph with the insertion of these words. Concerning new article "Y", the representative of the United Kingdom found the first paragraph acceptable as it closely resembled the equivalent paragraph in the Universal Declaration of Human Rights, and the second and third paragraphs unnecessary. He added that he would need to see the draft declaration as a whole as it emerged from the negotiations before determining whether paragraphs 2 and 3 would be, nevertheless, acceptable to him.

85. The representative of the United States of America stated that new article "W" was not currently acceptable to his delegation due to the terms "openly" and "legitimate" sources of funding. In his view, this language could be interpreted by some Governments to prohibit private or anonymous donations where the donor wanted privacy. Further, the declaration under negotiation should help defenders of human rights in their difficult tasks, and should not be used against them. Like many delegations, his would prefer no provision on this issue to a text that could be used in such a negative manner. Likewise, he shared the view that the issues dealt with in new article "Y" on duties of human rights defenders should be dealt with in the preamble and rejected the proposals that would establish unacceptable new limitations on human rights by creating duties that did not exist under international law.

86. The representative of France stated that the French delegation recognized the legitimacy of the concerns expressed by the representatives of some delegations who wished to have an article on the duties and responsibilities of defenders of human rights included in the draft declaration. However, the Working Group's mandate concerned only the "duties" and "responsibilities" of human rights defenders, which covered only provisions pertaining to the "principle of responsibility", excluding any reference to obligations, restrictions or limitations incompatible with the defence of human rights. France would therefore support any proposals consistent with the principles set forth in the Charter of the United Nations or the 1993 Vienna Declaration and Programme of Action, or in keeping with their aims and purposes. Accordingly, the French delegation could support the German proposal to include a specific reference in a paragraph of the preamble and the Swedish proposal on the wording of the new article 14.2 and, if necessary, of the new article 15. The French delegation was of the view that the availability of funding was a major factor in enabling individuals, groups, institutions or non-governmental human rights defence organizations to properly carry out their activities. In that respect, article "W" in CRP.4 could provide an acceptable basis, with certain restrictions. France considered the terms "lawfully", "openly" and "from a legitimate source", as used in the proposed text arrived at in the informal negotiations, to be inappropriate and therefore to have no place in the draft declaration. The French delegation could therefore accept only a wording which was less restrictive as to sources of funding.

B. Other comments received

87. The observer for Australia expressed his warm appreciation to the Chairman-Rapporteur for his efforts in the drafting of CRP.1 and his pleasure with the progress made during the twelfth session of the Working Group. However, in spite of a notable increase in political will within the Working Group to reach a consensus on the four outstanding issues, he was generally disappointed by the introduction of a number of drafting suggestions which, in the view of his and one field non-governmental organization, would result in human rights defenders being unable to operate effectively on the ground. In addition, he reiterated his delegation's willingness to accept CRP.1 without amendment on the understanding that the Working Group reached a satisfactory outcome on the four outstanding issues.

88. The representative of Canada noted the development of some momentum in the discussion of the four outstanding issues identified by the Chairman-Rapporteur in CRP.1, but expressed disappointment at the introduction of numerous extraneous factors during discussions of these issues which prevented the Working Group from completing its consideration of them. The delegation of Canada hoped that future discussion would be sufficiently focused to enable the Working Group to conclude its work in time for adoption of the declaration by the General Assembly in 1998 and also wished to join those delegations which had already expressed their satisfaction at the skilled and balanced efforts made by the Chairman-Rapporteur in his preparation of CRP.1 and his chairing at the present session of the Working Group.

89. The observer for the International Commission of Jurists, in the light of the tacit indication that international human rights commitments and

obligations took precedence over domestic law, asked that a new concluding article be added to the declaration to remove any confusion for non-expert readers, which would read as follows:

> "In the event that domestic and international norms differ, the norm providing the higher degree of protection for human rights and fundamental freedoms shall be applied."

With regard to the issue of duties and responsibilities, he suggested that the obligation to protect the interests of disappeared persons, child victims and others who could not gain direct access to the same procedural mechanisms as others should find expression in the declaration. He proposed the following wording to be used as a basis for future deliberations:

> "States have a duty to ensure that victims of enforced disappearance, and other victims of human rights violations, shall not be denied access to a relevant remedy merely because the violations or factors such as age or a disability, prevent them from pursuing the remedy effectively. Such victims have a right to have relevant remedies pursued on their behalf by a family member or other appropriate representative, in accordance with the provisions of this declaration."

Concerning a reference in the declaration to domestic law, he stated that there was a general consensus to focus on draft article 2 of chapter V as contained in annex I of last year's report of the Working Group which contained the implied concept of a dual framework (a domestic and an international legal framework). In order to make this concept clear, he expressed a preference for placing the words "At the national level" at the beginning of the article, or by inserting "national" before "juridical". He added that further clarity could be gained by deleting the word "all".

90. The representative of the Netherlands remarked on the positive and cooperative spirit that prevailed at the present session of the working group and on the importance of sustaining the momentum. Nevertheless, he expressed the hope that the Commission on Human Rights would decide that the thirteenth session of the Working Group would be its final one. He also stated that the Chairman-Rapporteur's consolidated text bore, of necessity, the hallmarks of a compromise and although it was not perfect, it struck the right balance between the objective of elaborating the best possible text in terms of doing justice to the important role of human rights defenders and, on the other hand, the need to avoid further delays in the finalization of the declaration. Concerning the Chairman's proposed text on trial observance (see CRP.6), the representative expressed the view that the words "to form an opinion on their compliance" was unsatisfactory, because human rights defenders also had the right to express those opinions, and in this connection suggested the insertion of the word "to disseminate" or wording along the lines of paragraph 3 of article 4 of the Chairman-Rapporteur's consolidated text "... to draw public attention to ...".

91. The representative of the United Kingdom stated that his delegation had been encouraged by the more positive spirit that had characterized the present session of the Working Group, and by the progress that had been made in the informal drafting group.

92. The representative of the United States of America expressed disappointment with the results of the session, because it had concentrated on proposals that would unacceptably limit human rights defenders and which were clearly objected to by many delegations and thus could not be the subject of consensus. Those proposals were diverting the Working Group from completing its work when it had almost achieved a consensus approach on the Chairman-Rapporteur's draft, and should consequently not be pursued further.

93. The Representative of Cuba stated that his delegation was ready to accept the wordings related to articles "W" and "Y" as compromise texts for the issues concerned (see paras. 63, 75 and 77), pending final discussion on section (b) in paragraph 54 of the report. He also noted that all final wordings in both articles were subject to the results of the still-pending negotiations on the contents of document CRP.1 submitted by the Chairman, after the proper discussion they deserved.

94. The representative of France felt that the draft declaration in its current form was an instrument capable of providing for the right and responsibility of individuals, groups and associations in promoting and encouraging respect for human rights and fundamental freedoms. Regarding the question of trial observance, the French delegation fully endorsed the wording proposed by the Chairman of the Working Group in CRP.6. The French Government understood the wish expressed by some delegations to include a provision on domestic legislation and felt that a provision referring to domestic law might indeed be inserted in the draft declaration. However, such a reference should appear in a single general provision along the lines of article 29-2 of the Universal Declaration of Human Rights. The proposal made by the Chairman in that connection in CRP.7 met with the approval of the French delegation.

C. Other matters

95. At the 9th meeting, on 28 February 1997, the Working Group discussed various issues relating to its future work.

96. The Chairman-Rapporteur invited the participants to express their opinions on whether the Commission on Human Rights should be requested to extend the mandate of the Working Group for another year.

97. The representative of Egypt felt that another session of the Working Group was needed in order to arrive at a consensus text. The representatives of Cuba, Pakistan and Mexico shared his view.

98. The representative of Germany stated that his delegation was encouraged by the headway made towards finalizing a declaration. For the purpose of achieving consensus, he suggested that the Chairman-Rapporteur should again be entrusted with the task of holding informal consultations in the period before the next session of the Working Group in order to produce a revised consolidated text of the draft declaration. This suggestion was supported by the representatives of Canada, India and Cuba. The representative of India proposed that the Working Group should be authorized to meet for 8 to 10 days next year in order to complete its work.

Annex I

CONSOLIDATED TEXT OF THE DRAFT DECLARATION SUBMITTED BY THE CHAIRMAN-RAPPORTEUR FOR CONSIDERATION BY THE WORKING GROUP AT ITS TWELFTH SESSION

PREAMBLE

The General Assembly,

Reaffirming the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

Reaffirming the importance of the Universal Declaration of Human Rights and the International Covenants on Human Rights as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system, as well as those at the regional level,

Stressing that all members of the international community shall fulfil, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind including distinctions based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Acknowledging the important role of international cooperation for and the valuable work of individuals, groups and associations in contributing to the effective elimination of all violations of the human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity, and from refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources,

Recognizing the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

Reiterating that all human rights and fundamental freedoms are universal, indivisible and interdependent and interrelated, without prejudice to the implementation of each of these rights and freedoms,

Stressing that the primary responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State,

Recognizing the right and the responsibility of individuals, groups and associations to promote respect for, and foster knowledge of, human rights and fundamental freedoms at the national and international level,

Declares:

Article 1

[former article 1 in chapter I]

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Article 2

[former articles 1 and 2 in chapter I]

1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political as well as other fields and the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all these rights and freedoms in practice.

2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in this declaration are effectively guaranteed.

Article 3

[former article 1 in chapter III]

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at national and international levels:

(a) To meet or assemble peacefully;

(b) To form, join and participate in non-governmental organizations, associations, or groups;

(c) To communicate with non-governmental or intergovernmental organizations.

Article 4

[former articles 1, 2 and 3 in chapter II]

Everyone has the right, individually and in association with others,

(a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how these rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

(b) As provided in applicable international human rights instruments, freely to publish, impart or disseminate to others views, information and knowledge of all human rights and fundamental freedoms;

(c) To study, discuss, form and hold opinions on the observance, both in law and practice, of all human rights and fundamental freedoms, and, through these and other appropriate means, to draw public attention on these matters.

Article 5

[former article 4 in chapter II]

Everyone has the right, individually and in association with others, to develop and discuss new human rights and principles, and to advocate their acceptance.

Article 6

[former article 2 in chapter III]

1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the Government of one's country and in the conduct of public affairs.

2. This includes, inter alia, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs, criticism and proposals for improving their functioning and to draw attention to any aspect of their work which may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

Article 7

[former articles 1, 2 and 3 in chapter IV]

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in this declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of violation of these rights.

2. To this end, everyone whose rights or freedoms are allegedly violated, has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law, and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms; as well as enforcement of the eventual decision and award; all without undue delay.

3. To the same end, everyone has the right, individually and in association with others, inter alia:

(a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms by petitions or other appropriate means to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;

(b) [See para. 15 above]

(c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

4. To the same end, everyone has the right, individually and in association with others, in accordance with applicable international instruments and procedures, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.

5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

Article 8

[former article 3 in chapter I]

No one shall participate, by act or failure to act where required, in violating human rights and fundamental freedoms, and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.

Article 9

[former article 4 in chapter IV]

Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics.

Article 10

[former article 3 in chapter III and article 3 in chapter IV]

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.

2. The State shall ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of their legitimate exercise of the rights referred to in this declaration.

In this connection, everyone is entitled, individually and in association with others, to be effectively protected under national law in reacting against or opposing, through peaceful means, activities and acts attributable to States which result in violations of human rights and fundamental freedoms as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Article 11

[former article 5 in chapter II and article 3 in chapter IV]

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

2. Such measures shall include, inter alia:

(a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;

(b) Full and equal access to international documents in the field of human rights, including the State's periodic reports to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussions and the official reports of these bodies.

3. The State shall ensure and support, where appropriate, the creation and development of further independent national institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institutions.

Article 12

[former article 5.3 in chapter II]

The State has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education, and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme.

Article 13

[former article "X"]

Individuals, non-governmental organizations and relevant institutions have an important role in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to further strengthen, inter alia, understanding, tolerance, peace and friendly relations among nations and amongst all racial and religious groups.

Article 14

[former article 1 in chapter V]

Nothing in the present declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations nor as restricting or derogating from the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments in this field.

Article 15

[former article 3 in chapter V]

In the exercise of the rights and freedoms referred to in this declaration, everyone, acting individually or in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and commitments, and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

Article 16

[former article 4 in chapter V]

Nothing in the present declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in this declaration.

Annex II

FIRST READING TEXT OF THE

DRAFT DECLARATION ON THE RIGHT AND RESPONSIBILITY OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT UNIVERSALLY RECOGNIZED HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

AS AMENDED IN THE COURSE OF THE SECOND READING AT THE NINTH AND TENTH SESSIONS OF THE WORKING GROUP (E/CN 4/1996/97, annex I)

Preamble

The General Assembly,

Stressing that all members of the international community shall fulfil, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and stressing the paramount importance of achieving international cooperation to fulfil this obligation, according to the United Nations Charter,

Recalling the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of [universally recognized] human rights and fundamental freedoms for all persons in all countries of the world,

Reaffirming the importance of the Universal Declaration of Human Rights and the International Covenants on Human Rights as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system,

Reaffirming further the importance of regional human rights instruments in the international efforts to promote universal respect for and observance of human rights and fundamental freedoms,

Acknowledging the important role of international cooperation for and the valuable work of individuals, groups and associations in contributing to the effective elimination of all mass, flagrant or systematic violations of the human rights and fundamental freedoms of peoples and individuals, such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity, and from refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources,

Recognizing the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

Reiterating that all human rights and fundamental freedoms are indivisible and interdependent, without prejudice to the implementation of each of these rights and freedoms,

Stressing that each State has the prime responsibility and duty to promote and protect [universally recognized] human rights and fundamental freedoms,

Recognizing the right and the responsibility of individuals, groups and associations to promote respect for, and foster knowledge of, human rights and fundamental freedoms at the national and international level,

Declares:

Chapter I

Article 1

Everyone has the right, individually and in association, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in this declaration are effectively guaranteed. 1/

Article 2

Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political as well as other fields and the legal guarantees required to ensure that all persons, individually and in association, are able to enjoy all these rights and freedoms in practice. 2/

Article 3

No one shall participate, by act or failure to act where required, in violating human rights and fundamental freedoms, and no one shall be subject to punishment or adverse action of any kind for refusing to do so. 3/

Chapter II

Article 1

Everyone has the right to know, to be informed about and to make known to others human rights and fundamental freedoms to which they are entitled. 4/

Article 2

Everyone has the right, individually as well as together with others,

(a) To seek, obtain, receive and hold information about these rights and freedoms, including having full access to information as to how these rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

(b) To publish, impart or disseminate freely to others views, information and knowledge of [universally recognized] human rights and fundamental freedoms.

Article 3

Everyone has the right, individually and in association with others, to study, discuss and form opinions as to whether these rights and freedoms are observed, both in law and in practice, [in their own country and elsewhere, and to solicit public attention on these matters].

Article 4

Everyone has the right to develop and discuss new human rights ideas and principles, and to advocate their universal acceptance. 5/

Article 5

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights. 5/

2. Such measures shall include:

(a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments; 5/

(b) Full and equal access to international documents in the field of human rights, including the State's periodic reports to the bodies established by the international human rights treaties to which it is a party, as well as the official report of these bodies. 5/

3. The State has the responsibility to take steps to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education, and to encourage all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials to include appropriate elements of human rights teaching in their training programmes. 5/

Chapter III

Article 1

For the purpose of promoting and protecting [universally recognized] human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

(a) To meet or assemble peacefully;

(b) To form, join and participate in non-governmental organizations, associations, or, where relevant, groups;

(c) To communicate with non-governmental or intergovernmental organizations.

Article 2

Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the Government of his country and in the conduct of public affairs. This includes, inter alia, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work which may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms. 6/

Article 3

Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of [their] human rights and fundamental freedoms.

In this connection, persons and groups are entitled to be protected under national law in reacting against or opposing, through peaceful means, activities and acts carried out by the State, groups or persons aimed at the destruction of [their] human rights and fundamental freedoms.

Article 4

1. Everyone has the right [is entitled], individually and in association with others, to solicit, receive and utilize voluntary financial or other contributions, for the purpose of promoting and protecting, through peaceful means, [universally recognized] human rights and fundamental freedoms.

2. In this connection, all contributions, including those from foreign sources, and the use thereof, shall be subject, on a non-discriminatory basis, to the national legislation as referred to in chapter V.

Chapter IV

Article 1

In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in this declaration, everyone has the right to benefit from an effective remedy and to be protected in the event of violations of these rights. 7/

Article 2

To this end, everyone has the right, inter alia, to:

(a) Draw public attention to violations of human rights and to complain about the policies and actions of individual officials and governmental bodies by petitions or other means to competent national judicial, administrative, or

legislative authorities or any other competent authority provided for by the legal system of the State, as well as to any relevant competent international bodies;

(b) Complain to and have that complaint promptly reviewed in a public hearing and decided by an independent, impartial and competent judicial or other authority established by law;

(c) Obtain a just decision and award providing redress, including any compensation due as well as enforcement of the decision and award, all without undue delay;

(d) Attend such relevant hearings or proceedings or, as the case may be, trials to assess their fairness and compliance with national and international standards;

(e) Offer and provide assistance, including professionally qualified legal assistance, in defending [universally recognized] human rights and fundamental freedoms;

(f) Unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights in accordance with applicable international instruments and procedures.

Article 3

To the same end, each State shall, inter alia:

(a) Take all necessary steps to ensure the protection by the competent authorities of everyone, individually or in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of their legitimate exercise of the rights referred to in this declaration; 8/

(b) Encourage and support, where appropriate, the creation and development of further institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institutions; 9/

(c) Conduct or ensure that a prompt and impartial investigation or inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction. 10/

Article 4

Everyone, whether individually or in groups, has the right to the lawful exercise of his occupation or profession. Everyone who, as a result of his occupation or profession, can affect the human dignity, human rights and

fundamental freedoms of others should respect those rights and freedoms and comply with relevant national or international standards of occupational and professional conduct or ethics. 11/

Chapter V

Article 1

Nothing in the present declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations nor as restricting or derogating from the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments in this field. 12/

Article 2

Domestic law consistent with the United Nations Charter and other international obligations and commitments applicable to the State in the field of human rights and fundamental freedoms, is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed, and within which all activities referred to in this declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted. 13/

Article 3

In the exercise of the rights and freedoms referred to in this declaration, everyone, acting individually or in association with others, shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society and in accordance with applicable international obligations and commitments. 14/

Article 4

Nothing in the present declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in this declaration or at their limitations to a greater extent than is provided for in this declaration. 15/

Article 5

1. Everyone has duties towards and within the community in which alone the free and full development of his personality is possible.

2. Everyone, individually and in association with others, should have respect for the rights, freedoms, identity and human dignity of all others, and have respect for the culture of the whole community and the cultures within the community, consistent with human rights and fundamental freedoms.

3. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding and promoting democratic processes, a democratic society, democracy and human rights and fundamental freedoms. This does not imply the right to carry out programmes or to engage in any other activity aimed at the destruction of democratic processes and human rights and fundamental freedoms, including progress accomplished in these areas.

* * *

Text "X"

Individuals, non-governmental organizations and institutions have an important role in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to further strengthen, inter alia, understanding, tolerance, peace and friendly relations among nations and amongst all racial and religious groups. 16/

Notes

1/ Adopted on 18 January 1995.

2/ Adopted on 19 January 1995.

3/ Adopted on 19 January 1994.

4/ Adopted on 19 January 1994.

5/ Adopted on 20 January 1994.

6/ Adopted on 21 January 1994.

7/ Adopted on 24 January 1994.

8/ Both the "chapeau" and paragraph (a) adopted on 25 January 1994.

9/ Adopted on 25 January 1994.

10/ Adopted on 28 January 1994.

11/ Adopted on 28 January 1994.

12/ Adopted on 26 January 1994.

13/ Adopted on 26 January 1994.

14/ Adopted on 26 January 1994.

15/ Adopted on 27 January 1994.

16/ Adopted on 25 January 1995.